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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,175	11/02/2005	Adolf Proidl	AT 020054	7738
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EXAMINER SIDDIQI, MOHAMMAD A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,175

Applicant(s)

PROIDL, ADOLF

Examiner

MOHAMMAD A. SIDDIQI

Art Unit

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-14 are presented for examination.

Claim Rejections - 35 USC § 101

2. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine. The specification (Unix program, page 6, 26-34) suggests that each of the "means" can be software alone. Therefore, the claims as a whole can be software per se.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson et al (6,745,011) (Hereinafter Hendrickson) in view of Lee et al. (7,171,157) (Hereinafter Lee).

5. As per claim 1 , Hendrickson discloses a receiver (17, 18, 19, 20, 21) for receiving information data (RD) from information servers (1, 2, 3, 4, 5) connected with a data network (NET) (120, fig 1, col 5, lines 45-52), having

information retrieval means (22, 23) for retrieving information data (RD) from one of the information servers (1, 2, 3, 4, 5) identified by data network addresses (location, 235, fig 2, col 9, lines 40-47) and having

receiving means (22) for receiving the retrieved information data (RD) from the information server (1, 2, 3, 4, 5) (collects information, col 10, lines 13-49) and having

quality testing means (26) for testing the quality of the received information data (RD) (col 14, lines 54-66) and for outputting (reports, col 14, lines 54-67) quality information (QI) (col 14, line 54 – col 15, lines 30),

characterized in that feedback means (27) are provided (may yield reports, col 14, lines 54-67).

Hendrickson does not explicitly disclose which are designed to output feedback information (FI) to one of the information servers (1, 2, 3, 4, 5), wherein the feedback information (FI) contains the quality information (QI) and connection information (VI) identifying the link between the receiver (17, 18, 19, 20, 21) and the data network (NET).

However, Lee discloses which are designed to output feedback information (FI) to one of the information servers (1, 2, 3, 4, 5) (col 4, line 50- col 5, line 20) wherein the feedback information (FI) contains the quality information (QI) and connection

Art Unit: 2154

information (VI) identifying the link between the receiver (17, 18, 19, 20, 21) and the data network (NET) (col 4, line 50- col 5, line 20). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Lee and Hendrickson. The motivation would have been monitoring network performance metrics and providing reports.

6. As per claim 2, the claim is rejected for the same reasons as claim 1, above. In addition, Lee discloses characterized in that the feedback means (27) are designed to output feedback information (FI) to the information server (1, 2, 3, 4, 5) from which the information data (RD) were retrieved (col 4, line 50- col 5, line 20).

7. As per claim 3, the claim is rejected for the same reasons as claim 1, above. In addition, Hendrickson discloses characterized in that the information retrieval means (22, 23) are designed to retrieve overview information (UEI) from an overview information server (5) connected to the data network (NET) (col 14, line 54 – col 15, lines 30), wherein the overview information (UEI) identifies information servers (1, 2, 3, 4, 5) and information data (RD) retrievable from these information servers (1, 2, 3, 4, 5), and in that the feedback means (27) are designed to output the feedback information (FI) to the overview information server (5) (col 14, line 54 – col 15, lines 30).

8. As per claim 4, the claim is rejected for the same reasons as claim 1, above. In addition, Hendrickson discloses characterized in that the connection information (VI)

Art Unit: 2154

output by the feedback means (27) identifies the service provider (13, 14, 15, 16) over which the receiver (17, 18, 19, 20, 21) is connected with the data network (NET) (col 14, line 54 – col 15, lines 30).

9. As per claim 5, the claim is rejected for the same reasons as claim 1, above. In addition, Hendrickson discloses characterized in that the quality information (QI) output by the feedback means (27) identifies the bandwidth, the average bit rate received and/or the actual profile of the bit rate of the received information data (RD) (col 14, line 54 – col 15, lines 30).

10. As per claim 6, the claim is rejected for the same reasons as claim 1, above. In addition, Lee discloses characterized in that the feedback means (27) are designed to output feedback information (FI) only when the quality information (QI) identifies a quality of received information data (RD) which is below a quality threshold (col 6, lines 22-33).

11. As per claim 7, the claim is rejected for the same reasons as claim 1, above. In addition, Lee discloses characterized in that the feedback means (27) are designed to set up an alternative data connection to the information server (1, 2, 3, 4, 5) and to output the feedback information (FI) to the information server (1, 2, 3, 4, 5) over this alternative data connection if it has proved impossible to set up a data connection to the information server (1, 2, 3, 4, 5) over the data network (NET) (col 8, lines 25-36).

8. As per claim 8, the claim is rejected for the same reasons as claim 1, above. In addition, Lee discloses characterized in that transmission path detection means (23) are provided, which are designed to detect the transmission path selected for transmission from the information server (1, 2, 3, 4, 5) to the receiver (17, 18, 19, 20, 21) and to output the thus detected connection information (VI) to the feedback means (27) (col 4, line 50- col 5, line 20).

12. As per claims 9-11, claims are rejected for the same reasons as claim 1-3, above.

13. As per claim 12, the claim is rejected for the same reasons as claim 1, above. In addition Lee discloses An overview information server (5) for outputting overview information (UEI) to a receiver (17, 18, 19, 20, 21) connected over a data network (NET), wherein the overview information (UEI) identifies information servers (1, 2, 3, 4, 5) and information data (RD) retrievable from these information servers (1, 2, 3, 4, 5) with the receiver (17, 18, 19, 20, 21) (fig 1, col 4, line 50- col 5, line 15), said overview information server having receiving means (6) for receiving query information (AI) from a receiver (17, 18, 19, 20, 21) for retrieving the overview information (UEI) and having memory means (8) for storing the overview information (UEI) and having transmitting means (6) for transmitting the stored overview information (UEI) to the retrieving receiver (17, 18, 19, 20, 21) (col 6, lines 17-34), characterized in that the receiving

Art Unit: 2154

means (6) are designed to receive feedback information (FI) containing quality information (QI) and connection information (VI), wherein the quality information (QI) identifies the quality of the information data (RD) received by the receiver (17, 18, 19, 20, 21) from one of the information servers (1, 2, 3, 4, 5) and the connection information (VI) identifies the link between the receiver (17, 18, 19, 20, 21) and the data network (NET)) (fig 1, col 4, line 50- col 5, line 15).

14. As per claim 13, the claim is rejected for the same reasons as claims 1, and 13, above. In addition, Lee discloses characterized in that evaluation means (7) are provided for evaluating the received feedback information (FI) and outputting fault report information which identifies those parts of the data network (NET) which are responsible for poor quality information data (RD) received by the receivers (17, 18, 19, 20, 21) (col 6, lines 17-34).

15. As per claim 13, the claim is rejected for the same reasons as claims 1, and 13, above. In addition, Lee discloses characterized in that the transmitting means (6) are designed to output the fault report information to service providers (13, 14, 15, 16) so as to improve the quality of the information data (RD) received by the receivers (17, 18, 19, 20, 21) (col 4, line 50- col 5, line 15).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 2002/0049849 teaches quality testing means.

US Patent 6,748,234

US Patent 4010492

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD A. SIDDIQI whose telephone number is (571)272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2154

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MS

/Nathan J. Flynn/

Supervisory Patent Examiner, Art Unit 2454